



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09-09-2021

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

WP No.19120 of 2021

R.Raja Iyer

.. Petitioner

vs.

1. Assistant Commissioner,
Hindu Religious and Charitable Endowments,
Salem - 1.

2. Executive Officer,
Arulmigu Choragai Malai,
Vetturaya Perumal Thirukoil,
Kuttapatti Village,
Mettur Taluk.

3.R.Madhavan

.. Respondents

Writ Petition is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus, directing the first respondent to consider the petitioner's representation dated 20.03.2021 and permit the petitioner to perform poojas in Arulmigu Vetraya Perumal Thirukoil, Puttapatti Village, Mettur Taluk, as per the judgment and decree dated 19.10.2012 in O.S.No.236 of 2012, DMC, Mettur as confirmed in judgment and decree dated 18.06.2014 in A.S.No.18 of 2013 on the file of Sub Court, Mettur.

For Petitioner : Mr.R.Subramanian

For Respondents-1&2 : Mr.N.R.R.Arun Natarajan,
Government Advocate.

O R D E R

The relief sought for in the present writ petition is to direct the first respondent to consider the petitioner's representation dated 20.03.2021 and permit the petitioner to



perform poojas in Arulmigu Vetraya Perumal Thirukoil, Puttapatti Village, Mettur Taluk as per the judgment and decree dated 19.10.2012 in O.S.No.236 of 2012 on the file of the District Munsif Court, Mettur as confirmed in judgment and decree dated 18.06.2014 in A.S.No.18 of 2013 on the file of the Sub Court, Mettur.

2. The petitioner states that his father late Ramachandra Iyer was the Hereditary Trustee for Arulmigu Vetraya Perumal Temple, Puttapatti Village, Mettur Taluk. His grandfather was also a Poojari of the said Temple. The Temple was constructed by the ancestors of the petitioner, who were performing poojas and administering the lands of the Temple and cultivating the same. The petitioner further states that after the death of his grandfather, the petitioner's father and other two pangalis, namely, Kuppusamy and Selvam were performing celebrations in the Temple during the Festival Season.

3. The petitioner states that his brother Kannaiyer filed O.S.No.236 of 2012 on the file of the District Munsif Court, Mettur, seeking injunction restraining the defendants therein from interfering with the plaintiff's right to perform pooja and collect 'Thattu Kanikkai' from Chithirai to Panguni months.

4. In the suit, it was found that the two groups have the right to perform celebrations and collect 'Thattu Kanikkai' by turns. The judgment was challenged by the first defendant Kumar @ Krishna Iyer in A.S.No.18 of 2013, on the file of the Sub Court, Mettur. The appeal was dismissed, confirming the judgment and decree passed in the Original Suit,

5. The learned Government Advocate, appearing on behalf of the respondents 1 and 2, brought to the notice of this Court that either in the suit or in the appeal suit, the Executive Officer of the Temple or the Authorities of the HR&CE Department are impleaded as party defendants or respondents. Thus, the suit as well as the appeal suit were decided without hearing the HR&CE Department as well as the Executive Officer of the Temple. Therefore, the decree in the suit cannot be relied upon by the petitioner as against the HR&CE Department or the Executive Officer of the Temple.

6. This apart, there is an express bar under Section 108 of the Hindu Religious and Charitable Endowments Act, to entertain a suit. When there is an express bar in a Special Statute and such a bar recognised under Section 9 of the Code of Civil Procedure, then the suit under the Code of Civil Procedure is not maintainable.



7. Section 9 of the Code of Civil Procedure contemplates that in the event of express or implied bar, suit cannot be entertained. Thus, the petitioner cannot rely on the decree passed in a suit or the appeal suit, more so, without impleading the Competent Authorities of the HR&CE Department, who all are the Authorities, controlling the administration under the provisions of the Hindu Religious and Charitable Endowments Act.

8. Section 63 of the Hindu Religious and Charitable Endowments Act, stipulates that Joint Commissioner or Deputy Commissioner to decide certain disputes and matters. Sub-clause (e) to Section 63 of the Hindu Religious and Charitable Endowments Act, states that whether any person is entitled, by custom or otherwise, to any honour, emolument or perquisite in any Religious Institution; and what the established usage of a Religious Institution is in regard to any other matter. Thus, if at all the petitioner is aggrieved, then he has to approach the Joint Commissioner or the Deputy Commissioner, as the case may be, for the redressal of his grievances.

9. The relief sought for in the present writ petition is to direct the first respondent to dispose of the representation of the petitioner submitted on 20.03.2021 to the Executive officer of the Temple and the Assistant Commissioner, HR&CE Department, who all are the Incompetent Authorities to resolve the disputes raised in the appeal application dated 20.03.2021 submitted by the petitioner.

10. This being the factum as well as the provisions of the Hindu Religious and Charitable Endowments Act, to be considered, the petitioner is at liberty to approach the Competent Authority by filing an application in the prescribed format to redress his grievances.

11. With this liberty, the writ petition stands disposed of. However, there shall be no order as to costs.

Sd/-
Assistant Registrar (CS-V)

//True Copy//

Sub Assistant Registrar

Svn



To

1. The Assistant Commissioner,
Hindu Religious and Charitable Endowments,
Salem - 1.

2. Executive Officer,
Arulmigu Choragai Malai,
Vetturaya Perumal Thirukoil,
Kuttapatti Village,
Mettur Taluk.

WP 19120 of 2021

KSM(CO)
SU(27/09/2021)